

2022-UNAT-1283, Ahlam Allari, Khalil Mohammad Khalaf, Rawan Hussein

UNAT Held or UNDT Pronouncements

As regards the request for an oral hearing, the UNAT held that the UNRWA DT had lawfully exercised its discretion and given a reasonable explanation for not holding an oral hearing. The UNRWA DT correctly determined that the comprehensive documentary evidence before it was sufficient to render a decision without the need for an oral hearing, especially as the issue was one of receivability. Further, the appellants have not shown how the denial of the request to hold an oral hearing affected the Judgment. With respect to the issue of receivability, the UNAT agreed with the UNRWA DT and upheld its findings. Since the contested decisions to convert the appellants' LDCs to FTAs, effective 1 October 2019, were rescinded on 15 January 2020 and the appellants continued on their LDCs, this rendered the contested decisions moot, as there was no longer an actual controversy between the parties. The decisions the appellants contested were the 1 October 2019 conversions of their LDCs to FTAs; but these decisions were rescinded and did not occur, which resulted in appellants continuing on their LDCs. Therefore, the controversy regarding the conversion was resolved during its pendency. The UNAT found that the appellants had contested the 1 October 2019 conversion of their LDCs to FTAs, not their subsequent agreement in 2020 to accept the FTAs, which was a different administrative decision with different circumstances and consequences that affected the terms and conditions of their employment. If the appellants wished to contest these 2020 FTAs, they would have had to file a separate challenge. The UNAT dismissed the appeals and affirmed Judgment No. UNRWA/DT/2021/027.

Decision Contested or Judgment/Order Appealed

The Appellants contested the decisions of UNRWA to convert their limited duration contracts (LDCs) to fixed-term appointments (FTAs). In Judgment

UNRWA/DT/2021/027, the UNRWA DT consolidated their applications, denied their request for oral hearings, and dismissed their applications as moot and not receivable, as the applicants subsequently signed the FTAs.

Legal Principle(s)

The Dispute Tribunal is in the best position to decide what is appropriate for the fair and expeditious disposal of a case and to do justice to the parties and therefore enjoys a wide margin of discretion in all matters relating to case management. The Appeals Tribunal must not interfere lightly in the exercise of the jurisdictional powers conferred on the tribunal of first instance to enable cases to be judged fairly and expeditiously and for dispensation of justice. A judicial decision will be moot if any remedy issued would have no concrete effect because it would be purely academic or events subsequent to joining issue have deprived the proposed resolution of the dispute of practical significance; thus placing the matter beyond the law, there no longer being an actual controversy between the parties or the possibility of any ruling having an actual, real effect. Just as a person may not bring a case about an already resolved controversy (*res judicata*) so too he should not be able to continue a case when the controversy is resolved during its pendency.

Outcome

Appeal dismissed on merits

Full judgment

[Full judgment](#)

Applicants/Appellants

Ahlam Allari
Khalil Mohammad Khalaf
Rawan Hussein

Entity

UNRWA

Case Number(s)

2021-1616

Tribunal

UNAT

Registry

New York

Date of Judgement

9 Dec 2022

President Judge

Judge Sandhu

Language of Judgment

English

Issuance Type

Judgment

Categories/Subcategories

Implied administrative decision

Fixed-term appointment

Appeals of final judgments

Subject matter (ratione materiae)

Oral hearings

Agreed termination

Administrative decision

Appointment (type)

Judgment-related matters

Jurisdiction / receivability (UNDT or first instance)

Procedure (first instance and UNAT)

Termination (of appointment)

Applicable Law

UNAT Statute

- Article 2.1(d)

UNRWA DT RoP

- Article 11
- Article 14

Related Judgments and Orders

2017-UNAT-733

2017-UNAT-742